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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

DAVID MILLETTE, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

NVIDIA CORPORATION,

Defendant.

Case No.

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

1 Plaintiff David Millette (“Plaintiff”) brings this action on behalf of himself and all others
2 similarly situated against Defendant Nvidia Corporation (“Defendant”). Plaintiff seeks to recover
3 injunctive relief and damages as a result of Defendant’s unlawful conduct. Plaintiff makes the
4 following allegations pursuant to the investigation of his counsel and are based upon information
5 and belief, except as to the allegations specifically pertaining to himself, which are based on
6 personal knowledge.

7 **NATURE OF THE ACTION**

8 1. This case addresses the surreptitious, non-consensual use and collection of YouTube
9 users’ videos by Defendant in order to train its “Cosmos” AI software, in violation of YouTube’s
10 terms of service and that the expense of video creators who are unknowingly creating training
11 models for Defendant’s “Cosmos” AI.

12 2. Cosmos AI is a deep learning AI service created by Defendant that is intended to
13 support additional of Defendant’s products, like image generation and automated driving.

14 3. To develop its Cosmos AI product, Defendant has scrapped millions of YouTube
15 videos without the consent of any YouTube user who has created the video.

16 4. Defendant, a company valued at over \$2 trillion, profits from the collection and use
17 of these videos by creating an AI software critical to supporting Nvidia’s products, such as its
18 Omniverse platform which allows developers to create various apps and software,¹ which, as of
19 2021, has been used by over 2.5 million developers around the world.²

20 5. By collecting and using this data without consent, Defendants have profited
21 significantly from the use of Plaintiff’s and Class members’ videos, violated California’s Unfair
22 Competition Law (“UCL”), and have been unjustly enriched at Plaintiff and Class members’
23 expense.

24
25 _____
26 ¹ Nvidia, *NVIDIA Omniverse for Developers*, available
[https://developer.nvidia.com/omniverse#:~:text=NVIDIA%20Omniverse%E2%84%A2%20is%20a,OpenUSD\)%20and%20NVIDIA%20RTX%E2%84%A2](https://developer.nvidia.com/omniverse#:~:text=NVIDIA%20Omniverse%E2%84%A2%20is%20a,OpenUSD)%20and%20NVIDIA%20RTX%E2%84%A2) (last accessed August 9, 2024).

27 ² Damien Fagnou, *NVIDIA Opens Omniverse Platform to Developers Worldwide*, NVIDIA (Aug.
28 12, 2021), available <https://developer.nvidia.com/blog/nvidia-opens-omniverse-platform-to-developers-worldwide/> (last accessed August 9, 2024).

1 13. Of those Defendant has developed its project “Cosmos,” which Nvidia describes as
2 a “Deep Learning service” that enables a third party to “rapidly build, train, and deploy neural
3 network models to address [] business demands.”⁴

4 14. “Deep learning is a type of machine learning that uses artificial neural networks to
5 learn from data. Artificial neural networks are inspired by the human brain, and they can be used
6 to solve a wide variety of problems, including image recognition, natural language processing, and
7 speech recognition.”⁵ Put differently, “[t]he algorithms learn to associate features in [] data with
8 the correct labels. For example, in an image recognition task, the algorithm might learn to
9 associate certain features in an image (such as the shape of an object or the color of an object) with
10 the correct label (such as ‘dog’ or ‘cat’).”⁶ In practice then, deep learning applications are useful to
11 “identify objects and features in images, such as people, animals, [and] places,” “[to] help
12 understand the meaning of text, such as in a customer service chatbot[] and spam filter[],” and to
13 “convert text into images, such as in the Google Translate app.”⁷

14 15. Feeding a deep learning AI video content is critical to its development because, in
15 the case of “Generative AI”⁸ for example, “deep learning models [] can learn from patterns in
16 existing content,”⁹ like Plaintiff’s YouTube videos.

17 16. Accordingly, the “Cosmos project aims to create a comprehensive video foundation
18 model. This model would integrate simulations of light transport, physics, and intelligence to
19 enable various applications crucial to NVIDIA’s product lineup.”¹⁰ As such, the program is
20

21 ⁴ NVIDIA, *Cosmos Deep Learning*, available <https://www.nvidia.com/es-la/gpu-cloud/deep-learning-software/> (last accessed August 9, 2024).

22 ⁵ Google Cloud, *What is Deep Learning?*, available <https://cloud.google.com/discover/what-is-deep-learning> (last accessed August 9, 2024).

23 ⁶ *Id.*

24 ⁷ *Id.*

25 ⁸ Generative AI is a category of AI that autonomously creates text, images, video, data or other
26 content in response to a user’s prompt or request.

27 ⁹ IBM, *What is Deep Learning*, available <https://www.ibm.com/topics/deep-learning> (last accessed August 9, 2024).

28 ¹⁰ FP Staff, *NVIDIA has Been ‘Stealing’ Unbelievable Amounts of Data, Videos from YouTube, Netflix to Train its own AI*, FIRSTPOST (August 6, 20204) available

1 intended to be a supporting algorithm “for automated driving, a human-like AI avatar, and
2 Omniverse, a tool for building 3D worlds.”¹¹ Put simply, the Cosmos AI project is “a sophisticated
3 AI model capable of understanding and generating video content.”¹²

4 17. To develop its Cosmos AI, “Nvidia reportedly used the YouTube data to train its
5 deep learning model[.]”¹³

6 18. Specifically, “NVIDIA has reportedly instructed its employees to use tools like [an]
7 open-source YouTube video downloader” while also using “virtual machines to download full-
8 length videos while evading detection and avoiding blocks by YouTube. Additionally, virtual
9 machines on Amazon Web Services [were] employed to refresh IP addresses, enabling download
10 of approximately 80 years’ worth of video content per day.”¹⁴

11 19. Nvidia needs to employ tools to evade YouTube’s monitors because, according to
12 YouTube CEO Neal Mohan, “using YouTube to train AI models would be a ‘clear violation’ of its
13 terms.”¹⁵

14 20. Nonetheless, according to some estimates, Nvidia “had downloaded 100,000 videos,
15 and in May, an email said that they had compiled 38.5 million URLs[.]”¹⁶

16 21. For years, YouTube has been a popular video sharing platform that allows content
17 creators and users to upload and share videos with audiences worldwide. However, unbeknownst
18

19 [https://www.firstpost.com/tech/nvidia-has-been-stealing-unbelievable-amounts-of-data-videos-](https://www.firstpost.com/tech/nvidia-has-been-stealing-unbelievable-amounts-of-data-videos-from-youtube-netflix-to-train-its-own-ai-13801619.html)
20 [from-youtube-netflix-to-train-its-own-ai-13801619.html](https://www.firstpost.com/tech/nvidia-has-been-stealing-unbelievable-amounts-of-data-videos-from-youtube-netflix-to-train-its-own-ai-13801619.html) (last accessed August 9, 2024).

21 ¹¹ Viktor Eriksson, *Nvidia Reportedly Trained AI Models On YouTube Data*, COMPUTERWORLD
(Aug. 7, 2024) available [https://www.computerworld.com/article/3483812/nvidia-reportedly-](https://www.computerworld.com/article/3483812/nvidia-reportedly-trained-ai-models-on-youtube-data.html)
22 [trained-ai-models-on-youtube-data.html](https://www.computerworld.com/article/3483812/nvidia-reportedly-trained-ai-models-on-youtube-data.html) (last accessed August 9, 2024).

23 ¹² FP Staff, *supra* note 10.

24 ¹³ Viktor Eriksson, *supra* note 11.

25 ¹⁴ FP Staff, *supra* note 10.

26 ¹⁵ Will Shanklin, *NVIDIA’s AI Team Reportedly Scraped YouTube, Netflix Videos Without*
27 *Permission*, ENGADGET (August 5, 2024) available [https://www.engadget.com/ai/nvidias-ai-team-](https://www.engadget.com/ai/nvidias-ai-team-reportedly-scraped-youtube-netflix-videos-without-permission-204942022.html)
28 [reportedly-scraped-youtube-netflix-videos-without-permission-204942022.html](https://www.engadget.com/ai/nvidias-ai-team-reportedly-scraped-youtube-netflix-videos-without-permission-204942022.html) (last accessed
August 9, 2024).

¹⁶ Jowi Morales, *Nvidia Accused of Scraping ‘A Human Lifetime’ of Videos Per Day To Train AI*,
TOM’S HARDWARE (Aug. 6, 2024) available [https://www.tomshardware.com/tech-](https://www.tomshardware.com/tech-industry/artificial-intelligence/nvidia-accused-of-scraping-a-human-lifetime-of-videos-per-day-to-train-ai)
[industry/artificial-intelligence/nvidia-accused-of-scraping-a-human-lifetime-of-videos-per-day-to-](https://www.tomshardware.com/tech-industry/artificial-intelligence/nvidia-accused-of-scraping-a-human-lifetime-of-videos-per-day-to-train-ai)
train-ai (last accessed August 9, 2024)

1 to those who upload videos to YouTube, Defendant has been covertly downloading YouTube
2 videos to create training datasets that Defendant’s Cosmos AI project.

3 22. Plaintiff and Class members have retained ownership rights in their uploaded
4 videos, per YouTube’s Terms of Service. Plaintiff and Class members did not consent to the use of
5 their videos as training material for Cosmos. Nonetheless, their videos were downloaded for
6 training Cosmos to be a critical support system for Nvidia products.

7 **CLASS ALLEGATIONS**

8 23. Plaintiff seeks to represent a class defined as all persons or entities domiciled in the
9 United States that uploaded any YouTube video that was fed to and used as training data for the
10 “Cosmos” AI Project without their consent (the “Nationwide Class”).

11 24. Plaintiff also seeks to represent a class defined as all persons or entities domiciled in
12 California that uploaded any YouTube video that was fed to and used as training data for the
13 “Cosmos” AI Project without their consent (the “California Subclass”) (collectively with the
14 Nationwide Class, the “Class”).

15 25. Specifically excluded from the Class is Defendant, Defendant’s officers, directors,
16 agents, trustees, parents, children, corporations, trusts, representatives, employees, principals,
17 servants, partners, joint ventures, or entities controlled by Defendant, and its heirs, successors,
18 assigns, or other persons or entities related to or affiliated with Defendant and/or Defendant’s
19 officers and/or directors, the judge assigned to this action, and any member of the judge’s
20 immediate family.

21 26. Plaintiff reserves the right to expand, limit, modify, or amend the class definition,
22 including the addition of one or more subclasses, in connection with his motion for class
23 certification, or at any other time, based on, *inter alia*, changing circumstances and/or new facts
24 obtained.

25 27. **Numerosity.** On information and belief, hundreds of thousands of video creators
26 fall into the definitions of the Class. Members of the Class can be identified through Defendant’s
27 records, discovery, and other third-party sources.

1 28. **Commonality and Predominance.** Common questions of law and fact exist as to
2 all members of the Class and predominate over any questions affecting only individual members of
3 the Class. These common legal and factual questions include, but are not limited to, the following:

- 4 (a) Whether Defendants’ use of Plaintiff’s videos to train their “Cosmos” AI
5 model constitutes unjust enrichment;
6 (b) Whether Defendants’ conduct alleged herein constitutes Unfair Competition
7 under California Business and Professions Code § 17200 *et seq.*;
8 (c) Whether this Court should enjoin Defendants from engaging in the unlawful
9 conduct alleged herein, and what the scope of that injunction would be;
10 (d) Whether any affirmative defense excuses Defendant’s conduct;
11 (e) Whether any statutes of limitation constrain the potential recovery for
12 Plaintiff and the Class;
13 (f) Whether Plaintiff and the other Class members are entitled to restitution or
14 other relief.

15 29. **Typicality.** Plaintiff’s claims are typical of the claims of the other members of the
16 Class in that, among other things, all Class members were similarly situated and were comparably
17 injured through Defendant’s wrongful conduct as set forth herein. Further, there are no defenses
18 available to Defendant that are unique to Plaintiff.

19 30. **Adequacy of Representation.** Plaintiff will fairly and adequately protect the
20 interests of the Class. Plaintiff has retained counsel that is highly experienced in complex
21 consumer class action litigation, and Plaintiff intends to vigorously prosecute this action on behalf
22 of the Class. Furthermore, Plaintiff has no interests that are antagonistic to those of the Class.

23 31. **Superiority.** A class action is superior to all other available means for the fair and
24 efficient adjudication of this controversy. The damages or other financial detriment suffered by
25 individual Class members are relatively small compared to the burden and expense of individual
26 litigation of their claims against Defendant. It would thus be virtually impossible for the Class to
27 obtain effective redress for the wrongs committed against the members on an individual basis.
28 Furthermore, even if Class members could afford such individualized litigation, the court system
could not. Individualized litigation would create the danger of inconsistent or contradictory
judgments arising from the same set of facts. Individualized litigation would also increase the
delay and expense to all parties and the court system from the issues raised by this action. By

1 contrast, the class action device provides the benefits of adjudication of these issues in a single
2 proceeding, economies of scale, and comprehensive supervision by a single court, and presents no
3 unusual management difficulties under the circumstances.

4 32. Further, Defendant has acted and refused to act on grounds generally applicable to
5 the proposed Class, thereby making appropriate final injunctive and declaratory relief with respect
6 to the Class as a whole.

7 **CAUSES OF ACTION**

8 **COUNT I**

9 **Unjust Enrichment or Restitution
(On Behalf of Plaintiff and the Class)**

10 33. Plaintiff incorporates by reference and re-alleges each and every allegation set forth
11 above as though fully set forth herein.

12 34. Plaintiff brings this claim individually and on behalf of members of the Class
13 against the Defendant.

14 35. To the extent required by law, Plaintiff brings this claim in the alternative to any
15 legal claims that may be alleged.

16 36. Plaintiff brings this claim under the laws of the State of California.

17 37. Plaintiff also alternatively alleges this claim as a Quasi-Contract or Non-Quasi-
18 Contract Claim for Restitution and Disgorgement.

19 38. Plaintiff and Class members unwittingly conferred a benefit upon Defendant. Nvidia
20 acquired valuable information from Plaintiff and Class members' videos to expand its AI
21 software's training datasets and used that information to develop and improve its products. In
22 using Plaintiff's information to refine its deep learning AI software, Defendant made its products,
23 which are reliant on its "Cosmos" Project, more valuable to prospective and current users, who
24 purchase, and will be able to purchase, subscriptions and access to those products. Plaintiff and
25 Class members received nothing from this transaction. Plaintiff lacks an adequate remedy at law,
26 and pleads this cause of action in the alternative to the extent Plaintiff is required to do so.

27 39. Defendant had knowledge of such benefits.

28 40. Defendant was aware that it was engaging in prohibited behavior.

JURY TRIAL DEMANDED

Plaintiff demands a trial by jury on all claims so triable.

Dated: August 14, 2024

BURSOR & FISHER, P.A.

By: /s/ L. Timothy Fisher
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ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Nvidia Illegally Trains Cosmos AI Software by Scraping YouTube Videos, Class Action Alleges](#)
